

REMARKS

Claim Rejections – 35 U.S.C. § 102

Claims 1-15 of the application were rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of the U.S. Patent of Morgan No. 6,474,981. It is submitted that the Morgan reference does not provide sufficient information to anticipate the subject matter of the rejected claims, because the reference does not identically show all of the elements of the invention recited in the rejected claims as required by patent case law.

For a prior-art reference to anticipate, every element of the claimed invention must be identically shown in a single reference.

In Re Bond, 910 F.2d 831, 15 U.S.P.Q. 2d 1566, 1567, 1568 (Fed. Cir. 1990).

[A]ny degree of physical difference, however slight, invalidates claims of anticipation.

Ultradent Products, Inc. v. Life-Like Cosmetics, Inc., 39 U.S.P.Q. 2d 1969, 1980 (Utah 1996).

Of the rejected claims 1-15, claims 1 and 8 are independent claims. These independent claims recite elements of the invention that are not identically shown by the Morgan reference, and therefore under the above-cited case law, the Morgan reference does not anticipate these claims. These claims, as originally filed, are allowable over the Morgan reference. However, claim 1 has been amended herein to make further emphasis of the elements of the invention that are recited in both claims 1 and 8, and are not identically shown by the Morgan reference. Therefore, the amendment to claim 1 does not necessarily further narrow the subject matter of the claim.

An important distinction between the subject matter of the invention and the subject matter of the Morgan reference is that the heater blower housing of the invention draws hot exhaust gases out of a heater and delivers the exhaust gases to an exhaust flue. Because the heater blower housing of the invention receives hot exhaust gases from a heater, the housing is provided with a layered wall with an interior layer in the housing exhaust chamber that receives the hot exhaust gases from the separate heater. This interior layer of the exhaust chamber insulates the exterior of the exhaust chamber from the hot exhaust gases and directs the hot exhaust gases through the blower housing.

In contrast to the above, the Morgan reference discloses a fundamentally different blower. The Morgan reference blower supplies ambient air to a combustion chamber of a furnace (see column 1, lines 26-29 of the Morgan reference). Thus, the construction of the blower in the Morgan reference blows ambient air into a combustion chamber, and is not designed to receive hot exhaust gases from a combustion chamber as is the blower housing of the invention. Because the Morgan blower does not direct hot exhaust gases, there is no need to provide the blower housing with a heat shield such as the interior layer of the blower housing of the invention.

Independent claim 1 recites a heater blower housing that comprises an exhaust compartment in the housing where the exhaust compartment has an exhaust compartment opening that receives exhaust gases from a separate heater when the heater blower housing is attached to the separate heater. This element of the invention is not identically shown by the Morgan reference. The Morgan blower does not have an exhaust compartment opening that receives exhaust gases when the blower is attached

to a heater. Therefore, the Morgan reference does not anticipate this element. As stated earlier, the Morgan reference discloses a blower that blows ambient air into a combustion chamber. The reference does not identically show a blower housing that is attachable to a separate heater to receive exhaust gases from the heater as recited in claim 1. This physical difference invalidates any claim that the Morgan reference anticipates claim 1.

Furthermore, claim 1 also recites that the exhaust compartment is positioned to receive exhaust gases from a separate heater and to direct the exhaust gases to the fan compartment. Again, the Morgan reference does not identically show an exhaust compartment that receives exhaust gases, much less an exhaust compartment that directs exhaust gases to a fan compartment as recited in claim 1. This physical difference invalidates any claim that the Morgan reference anticipates the subject matter of claim 1.

Furthermore, the rejections of claims 1-15 state that the Morgan reference discloses a fan compartment 42, and a layered wall with “at least an interior layer, or what could be considered a heat shield (section of tube 42 that extends from 92 to end wall 58).” In view of this explanation of the rejection, it appears that the rejection is interpreting the combustion tube 42 of the Morgan reference as both the fan compartment recited in claim 1 and as the interior layer inside the exhaust compartment recited in claim 1. The rejection is based on interpreting one element disclosed in the Morgan reference as two separate elements recited in claim 1. This is a misinterpretation of what is disclosed by the Morgan reference. Because the rejection of claim 1 is based on a misinterpretation of the Morgan reference, the rejection is made

in error and should be withdrawn. Claim 1 and its dependent claims 2-7 are all allowable over the Morgan reference for the reasons set forth above.

Independent claim 8, like claim 1, recites an exhaust compartment having at least a portion of a wall positioned to receive exhaust gases from a separate heater to which the blower housing is attached to direct the gases to the fan compartment. For the same reasons set forth above with regard to claim 1 in explaining how these elements of the invention are not identically shown by the Morgan reference, the Morgan reference fails to anticipate claim 8.

Furthermore, claim 8 also recites a heat shield attached to the portion of the exhaust compartment wall. As explained above with regard to claim 1, the rejection of claim 8 is based on interpreting one element disclosed by the Morgan reference, i.e. the combustion tube 42, has two elements of the invention recited in claim 8, i.e. the fan compartment and the heat shield. Because the rejection of claim 8 is based on a misinterpretation of what the Morgan reference discloses, the rejection is made in error and should be withdrawn and the claim allowed. Claim 8 and its dependent claims 9-15 are all allowable over the Morgan reference for the same reasons set forth above with regard to claim 1.

Claims 16, 18, 19, and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by the U.S. Patent of Jyoraku et al. No. 4,767,285. Of these rejected claims, claim 16 is an independent claim. Claim 16 has been amended herein to further explain that the vent opening in the motor compartment of the heater blower housing communicates an exterior environment of the heater blower housing with the motor compartment. In contrast to this, what is interpreted as the vent opening 6a in the

Jyoraku reference is an opening that communicates an internal space 13 between a housing 1 and an end bracket 5 with the interior of an end casing 35 that is mounted through an annular mount 38 to the end bracket 5 (see column 4, lines 60-64). Thus, the opening 6a in the bracket 5 does not communicate an exterior environment of a heater blower housing with a motor compartment as recited in claim 16. This physical difference between what is disclosed by the Jyoraku reference and what is recited in claim 16 invalidates any claim that the Jyoraku reference anticipates claim 16 under the above-cited case law.

Furthermore, claim 16 has been amended to specify that the guard has an outer side wall that is positioned outside of the blower housing. What is interpreted as the guard in the rejection of claim 16 is the guide vane assembly 40 that is attached to the bracket 5 for directing air to the bracket openings 6a. This guide vane assembly 40 is entirely contained inside the blower housing of the Jyoraku reference. This physical difference invalidates any claim that the Jyoraku reference anticipates claim 16 under the above-cited case law.

Still further, claim 16 has been amended to recite that the guard has an outer side wall that is positioned directly opposite the inlet vent opening and completely covers the inlet vent opening. In contrast, the guide vane assembly 40 of the Jyoraku reference does not identically show any of the plurality of guide vanes 45 that are positioned directly opposite any of the bracket openings 6a or that completely cover over any of the bracket openings. This physical difference between what is disclosed by the Jyoraku reference and what is recited in claim 16 invalidates any claim that the reference anticipates claim 16.

For all the reasons set forth above, claims 16 and its dependent claims 18, 19, and 20 are not anticipated by the Jyoraku reference and are allowable over the prior art.

Claim Rejections – 35 U.S.C. § 103

Claim 17 was rejected under 35 U.S.C. § 103(a) as being obvious in view of the disclosure of the Jyoraku reference and further in view of the disclosure of the U.S. Patent of Wille No. 5,610,456. In the rejection it was contended that the Wille reference disclosed the inlet vent collar of claim 17 at the back of the housing 18 of the reference. The rejection contended that the inlet vent collar extended around an inlet vent opening 74, and that the guard 26 was removably attachable to the inlet vent collar. However, the Wille reference makes clear that the guard or end shield 26 is fixed to the inlet vent collar or motor casing 18 (see column 4, lines 65-67). The guard 26 is not removably attached to the vent collar 18 as required by claim 17. Because the rejection of claim 17 is based on a misinterpretation of what is disclosed by the Wille reference, the rejection is made in error and should be withdrawn. Claim 17 is allowable over the prior art for this reason.

It is respectfully submitted that in view of the amendments and remarks presented herein, the application is in condition for allowance and a favorable action is requested.

Respectfully submitted,
Thompson Coburn LLP

By: Joseph M. Rolnicki
Joseph M. Rolnicki
Reg. No. 32,653
One US Bank Plaza
St. Louis, MO 63101-1693
(314) 552-6286